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May 8, 2019

RE: AN ACT to amend the insurance  
law, in relation to payments to prehospital  
emergency medical services providers

A6211 (Magnarelli)  
S3526 (Breslin)

**MEMORANDUM IN OPPOSITION**

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shield Plans strongly opposes enactment of this legislation, which would completely undermine provider networks and eviscerate health plans' ability to control costs in the context of ambulance services, leaving New Yorkers to pay more for less quality. Provider networks are an important tool by which plans ensure quality and control costs. Across the spectrum of providers, one of the primary incentives for joining a network is the ability to be directly reimbursed by the plan instead of relying on the recipient of services to remit payment.

This Bill would require insurers to directly reimburse all ambulance providers whether in-network or not, thereby entirely eliminating the incentive to be "in-network." Even more concerning is the fact that this Bill requires this direct reimbursement to be at the "usual and customary charge." In-network reimbursement rates are generally lower than the usual and customary charge because only in-network status offers the incentive of direct reimbursement. Under the proposed legislation, not only would out-of-network providers be directly reimbursed, but they would also be paid at a higher rate than in-network providers. The combination of direct reimbursement regardless of network status and increased payment rates to out-of-network providers results in a massive disincentive for providers to negotiate with plans for in-network status. Such a change would greatly undermine insurers' important quality and cost controls, ultimately resulting in higher health insurance premiums and potentially substandard care.

The mandatory utilization of a "usual and customary rate" likewise creates a number of challenging and costly compliance problems. For example, as a result of industry agreements with the Attorney General, all non-facility "usual and customary" reimbursement rates are now determined by the not-for-profit Fair Health. Currently, Fair Health only collects charge data from physician and dentist providers and does not compile charge data to determine the usual and customary rates for ambulance providers. Moreover, most plans do not currently collect

charge data for ambulance providers and would need to begin to do so to be compliant with this Bill. Likewise, those plans that do not currently use “usual and customary rates” and therefore do not utilize Fair Health will now need to contract with Fair Health exclusively to determine ambulance rates. These additional efforts will be time consuming and expensive, and these costs will eventually have to be passed on to consumers.

In addition to these cost concerns, the proposed changes will eliminate essential provider network controls, compromising quality and amounting to nothing more than a substantial windfall for providers at the expense of individuals and businesses who purchase insurance coverage.

For the foregoing reasons, we strongly oppose enactment of this legislation.

Respectfully submitted,

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Legislative Counsel for the Blue Cross and Blue Shield Plans